



# House of Representatives

General Assembly

**File No. 660**

February Session, 2004

Substitute House Bill No. 5025

*House of Representatives, April 26, 2004*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT STRENGTHENING ETHICS LAWS CONCERNING GIFTS, FINANCIAL DISCLOSURE AND STATE CONTRACTORS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 1-83 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) (1) All state-wide elected officers, members of the General  
4 Assembly, department heads and their deputies, members of the  
5 Gaming Policy Board, the executive director of the Division of Special  
6 Revenue within the Department of Revenue Services, members or  
7 directors of each quasi-public agency, members of the Investment  
8 Advisory Council, state marshals and such members of the Executive  
9 Department and such employees of quasi-public agencies as the  
10 Governor shall require, shall file, under penalty of false statement, a  
11 statement of financial interests for the preceding calendar year with the  
12 commission on or before the May first next in any year in which they  
13 hold such a position. Any such individual who leaves his or her office

14 or position shall file a statement of financial interests covering that  
15 portion of the year during which such individual held his or her office  
16 or position. The commission shall notify such individuals of the  
17 requirements of this subsection within thirty days after their departure  
18 from such office or position. Such individuals shall file such statement  
19 within sixty days after receipt of the notification.

20 (2) Each state agency, department, board and commission shall  
21 develop and implement, in cooperation with the Ethics Commission,  
22 an ethics statement as it relates to the mission of the agency,  
23 department, board or commission. The executive head of each such  
24 agency, department, board or commission shall be directly responsible  
25 for the development and enforcement of such ethics statement and  
26 shall file a copy of such ethics statement with the Department of  
27 Administrative Services and the Ethics Commission.

28 (b) (1) The statement of financial interests, except as provided in  
29 subdivision (2) of this subsection, shall include the following  
30 information for the preceding calendar year in regard to the individual  
31 required to file the statement and the individual's spouse and  
32 dependent children residing in the individual's household: (A) The  
33 names of all businesses with which associated; (B) the category or type  
34 of all sources of income in excess of one thousand dollars, without  
35 specifying amounts of income; (C) the name of securities in excess of  
36 five thousand dollars at fair market value owned by such individual,  
37 spouse or dependent children or held in the name of a corporation,  
38 partnership or trust for the benefit of such individual, spouse or  
39 dependent children; (D) the existence of any known blind trust and the  
40 names of the trustees; (E) all real property and its location, whether  
41 owned by such individual, spouse or dependent children or held in the  
42 name of a corporation, partnership or trust for the benefit of such  
43 individual, spouse or dependent children; (F) the names and addresses  
44 of creditors to whom the individual, the individual's spouse or  
45 dependent children, individually, owed debts of more than ten  
46 thousand dollars; [and] (G) any leases or contracts with the state held  
47 or entered into by the individual or a business with which he or she

48 was associated; and (H) a description of any partnership, joint  
49 ownership or similar business affiliation between (i) a business  
50 included under subparagraph (A) of this subdivision with which the  
51 individual filing the statement, the individual's spouse or a dependent  
52 child of the individual is associated, and (ii) a lobbyist, a person that  
53 the individual filing the statement knows or has reason to know is  
54 doing business with or seeking to do business with the state or is  
55 engaged in activities that are directly regulated by the department or  
56 agency in which the individual is employed, or a business with which  
57 such lobbyist or person is associated.

58 (2) The statement of financial interests filed by state marshals shall  
59 include only amounts and sources of income earned in their capacity  
60 as state marshals.

61 (c) The statement of financial interests filed pursuant to this section  
62 shall be a matter of public information, except the list of names, filed in  
63 accordance with subparagraph (F) of subdivision (1) of subsection (b)  
64 of this section shall be sealed and confidential and for the use of the  
65 commission only after a complaint has been filed under section 1-82  
66 and such complaint has been determined by a vote of the commission  
67 to be of sufficient merit and gravity to justify the unsealing of such list  
68 or lists and not open to public inspection unless the respondent  
69 requests otherwise. If the commission reports its findings to the Chief  
70 State's Attorney in accordance with subsection (c) of section 1-88, the  
71 commission shall turn over to the Chief State's Attorney such relevant  
72 information contained in the statement as may be germane to the  
73 specific violation or violations or a prosecutorial official may subpoena  
74 such statement in a criminal action. Unless otherwise a matter of  
75 public record, the Ethics Commission shall not disclose to the public  
76 any such subpoena which would be exempt from disclosure by the  
77 issuing agency.

78 (d) Any individual who is unable to provide information required  
79 under the provisions of subdivision (1) of subsection (b) of this section  
80 by reason of impossibility may petition the commission for a waiver of

81 the requirements.

82 Sec. 2. (NEW) (*Effective October 1, 2004*) (a) Not later than thirty days  
83 after the effective date of this section, each state agency and quasi-  
84 public agency shall publish on the agency's web site each existing  
85 contract entered into by the agency and having a cost of more than one  
86 hundred thousand dollars.

87 (b) Not later than fifteen days after any state agency or quasi-public  
88 agency enters into a contract having a cost of more than one hundred  
89 thousand dollars, the agency shall publish such contract on the  
90 agency's web site.

91 (c) As used in this section, "quasi-public agency" has the same  
92 meaning as provided in section 1-79 of the general statutes.

93 Sec. 3. (NEW) (*Effective October 1, 2004*) (a) As used in this section,  
94 (1) "gift" has the same meaning as provided in section 1-79 of the  
95 general statutes, except that the exclusion in subdivision (12) of  
96 subsection (e) of said section 1-79 for a gift for the celebration of a  
97 major life event shall not apply, (2) "quasi-public agency", "public  
98 official" and "state employee" have the same meanings as provided in  
99 section 1-79 of the general statutes, and (3) "participated substantially"  
100 has the same meaning as provided in regulations adopted by the State  
101 Ethics Commission pursuant to section 1-92 of the general statutes.

102 (b) The State Properties Review Board shall not approve a contract  
103 or lease, proposed by a state agency, except for The University of  
104 Connecticut, and having a cost of more than five hundred thousand  
105 dollars, unless the agency submits to said board:

106 (1) An affidavit, which shall be submitted by each person, firm or  
107 corporation submitting a bid or proposal for the contract or lease. The  
108 affidavit shall be submitted with the bid or proposal and shall be  
109 signed by the official of the person, firm or corporation who submits  
110 such bid or proposal. Such affidavit shall attest to whether or not such  
111 person, firm, corporation, and any official or employee of the person,

112 firm or corporation or any agent of such official, employee or person,  
113 firm or corporation, who participated substantially in preparing the  
114 bid or proposal, provided a gift during the period beginning twelve  
115 months before the date of submission of such bid or proposal or the  
116 effective date of this section, whichever is later, and ending on the date  
117 of submission of the bid or proposal, to (A) any public official or state  
118 employee of the state agency soliciting bids or proposals for the  
119 contract or lease, or (B) any public official or state employee of any  
120 other state agency having supervisory or appointing authority over  
121 such state agency, which public official or state employee participated  
122 substantially in the preparation of the bid solicitation or request for  
123 proposals for the contract or lease. The affidavit shall also attest that no  
124 such official or employee of the person, firm or corporation or agent of  
125 such official, employee or person, firm or corporation knows of any  
126 action by the person, firm or corporation to circumvent the  
127 requirements of this subdivision by providing for any other official,  
128 employee or agent to provide a gift to any such public official or state  
129 employee. If any gift described in this subdivision was provided, the  
130 affidavit shall include a description of the gift and the value and  
131 approximate date of the gift;

132 (2) An affidavit signed by the official of the person, firm or  
133 corporation awarded the contract or lease, which shall be submitted at  
134 the time the contract or lease is executed. The affidavit shall attest to  
135 whether or not gifts described in subdivision (1) of this subsection  
136 were provided between the date of the affidavit under subdivision (1)  
137 of this subsection and the date of execution of the contract or lease to  
138 public officials or state employees who participated substantially in the  
139 negotiation or award of the contract or lease. If any such gift was  
140 provided, the affidavit shall include a description of the gift and the  
141 value and approximate date of the gift;

142 (3) An affidavit, signed by each public official or state employee  
143 who participated substantially in the bid solicitation or request for  
144 proposals for the contract or lease, attesting to whether or not such  
145 official or employee received a gift during the period beginning twelve

146 months before the date of submission of a bid or proposal pursuant to  
147 such bid solicitation or request for proposals or the effective date of  
148 this section, whichever is later, and ending on the date of submission  
149 of the bid or proposal, from the person, firm or corporation submitting  
150 the bid or proposal, any official or employee of the person, firm or  
151 corporation, or any agent of such official, employee, person, firm or  
152 corporation. If any such gift was received under this subdivision, the  
153 affidavit shall include a description of the gift and the value and  
154 approximate date of the gift; and

155 (4) An affidavit, signed by each public official or state employee  
156 who participated substantially in the negotiation or award of the  
157 contract or lease, attesting to whether or not gifts described in  
158 subdivision (3) of this subsection were received between the date of  
159 the affidavit under subdivision (3) of this subsection and the date of  
160 execution of the contract or lease. If any such gift was received, the  
161 affidavit shall include a description of the gift and the value and  
162 approximate date of the gift.

163 (c) No quasi-public agency or The University of Connecticut shall  
164 execute a contract or lease having a cost of more than five hundred  
165 thousand dollars unless the agency or said university obtains the  
166 affidavits described in subsection (b) of this section.

167 (d) The provisions of subsections (b) and (c) of this section shall also  
168 apply to (1) any subcontract under a contract pursuant to said  
169 subsections (b) and (c), which subcontract has a cost of more than five  
170 hundred thousand dollars, and (2) an amendment to a contract, lease  
171 or subcontract under said subsections (b) and (c), which amendment  
172 has a cost of more than five hundred thousand dollars. The affidavits  
173 required for such amendments shall apply to gifts provided or  
174 received during the period beginning twelve months before the date of  
175 execution of such amendment or the effective date of this section,  
176 whichever is later, and ending on the date of execution of such  
177 amendment.

178 (e) Each affidavit required under this section shall be sworn as true

179 to the best knowledge and belief of the person signing the affidavit,  
180 subject to the penalties of false statement.

181 (f) No municipal official or employee shall be required to submit an  
182 affidavit under this section.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Ethics Com.	GF - Revenue Gain	Potential Minimal	Potential Minimal
Various State Agencies	All Appropriated Funds - Cost	Potential Significant	Potential Significant
Inf. Technol., Dept.	GF - Cost	400,000	300,000
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	81,700	181,500
Pub. Works, Dept.	GF - Cost	100,000	96,000

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill requires each state agency to publish on its website each contract valued at over \$100,000. This will have significant impact on the Department of Information Technology (DOIT). In FY 05, DOIT will require \$100,000 for additional hardware and software to handle the Internet contract publishing requirements under the bill. DOIT will also require five full-time positions with total salary costs of \$300,000, plus fringe benefits to meet the Internet contract publishing provisions of this bill.

The provisions of the bill require the Department of Public Works (DPW) to post construction contracts on the Internet. The agency estimates that it will need to upload approximately 3,550 pages per fiscal year. DPW will require two full-time positions (an Affirmative Action Officer and an Administrative Assistant) with total salary costs of \$96,000, plus fringe benefits to meet the Internet contract publishing provisions. The Other Expenses costs associated with these positions is \$4,000 in FY 05 for two computers, a scanner, some furniture and office supplies.



Requiring each state agency to publish on its website contracts valued at over \$100,000 will result in a workload increase for various state agencies that may require additional resources or positions.

This bill makes various technical adjustments to strengthen the state ethics laws. It broadens the information public officials provide in their annual statement of financial interest to include business affiliations between a business to which they are associated. This statement must be filed with the State Ethics Commission annually by May 1.

---

**OLR BILL ANALYSIS**

sHB 5025

***AN ACT STRENGTHENING ETHICS LAWS CONCERNING GIFTS,  
FINANCIAL DISCLOSURE AND STATE CONTRACTORS*****SUMMARY:**

This bill prohibits the State Properties Review Board (SPRB) from approving, and certain quasi-public agencies and UConn from executing, contracts or leases valued at over \$500,000 unless they receive an affidavit regarding "gifts" given to the officials or employees involved in soliciting or awarding them. "Gift" has the same meaning that it has in the State Ethics Code, which is generally anything of value given for less than its value. The law contains 16 gift exceptions, including items valued at \$10 or less; certificates or ceremonial awards valued at less than \$100; and gifts given at major life events. The bill limits to \$100 the value of allowable gifts given at major life events.

The bill broadens the information public officials provide in their annual statement of financial interest to include business affiliations between a business with which they are associated and others.

By November 1, 2004, the bill requires each state agency and quasi-public agency to publish on its website each of its contracts valued at over \$100,000. The agencies must publish contracts at this threshold entered after that date within 15 days of the entry date.

EFFECTIVE DATE: October 1, 2004

**AFFIDAVIT REQUIREMENT**

The bill prohibits the SPRB from approving, and UConn and certain quasi-public agencies from executing, contracts or leases valued at over \$500,000 unless they receive affidavits from (1) the person or business submitting a bid or proposal for the contract or lease, (2) the person or the official of the business awarded it, (3) most public officials and all state employees who participated substantially in the bid solicitation or request for proposal (RFP) for it, and (4) most

officials and employees who participated substantially in negotiating or awarding it. The affidavit requirement does not apply to municipal officials or employees. "Substantial participation" is direct, extensive, and substantive, not peripheral, clerical, or ministerial.

The quasi-public agencies the bill covers are: the Connecticut Development, Connecticut Health and Education Facilities, Connecticut Higher Education Supplemental Loan, Connecticut Housing Finance, Connecticut Housing, Connecticut Resources Recovery, Lower Fairfield County Convention Center, Capital City Economic Development, and Connecticut Port authorities; Connecticut Hazardous Waste Management Service; and Connecticut Innovations, Incorporated.

Each person signing an affidavit does so under penalty of false statement and swears that the information he provides is true to the best of his knowledge and belief.

If the contract or lease is over \$500,000, the affidavit requirement also applies to subcontracts and any amendments to it over \$500,000 that the SPRB, UConn, or the quasi-public agencies approve. The look-back on affidavits regarding amendments is the later of the 12 months before the amendment is executed or October 1, 2004. The look-back on subcontract affidavits is unclear (see COMMENT).

### ***Bidder Affidavits***

The bidder must submit the affidavit with the bid or proposal. He must attest whether he or any official, employee, or agent of his business who participated substantially in preparing the bid or proposal gave a gift before submitting the bid or proposal to any official or employee of (1) the agency soliciting the bid or (2) any other agency that supervises or makes appointments to the soliciting agency and that participated substantially in preparing the bid or proposal. The period covered by the affidavit is the later of the 12 months immediately preceding the bid or proposal or October 1, 2004 and ends on the date the bid or proposal is submitted.

The affidavit must also attest that no such official, employee, or agent knows of any action by the business to circumvent the affidavit requirement by getting anyone else to give a gift to an official or employee of the soliciting agency.

***Affidavits From People or Businesses Awarded Contracts or Leases***

The affidavit from the contract or lease recipient must be submitted when the contract or lease is executed. It must attest to whether gifts were provided to the officials or employees of the soliciting agency who participated substantially in the negotiation or award of the contract or lease (or agency with supervisory or appointing authority) between the date the bidder affidavit was signed and the date the contract or lease was executed.

***Affidavits from Participants in the Solicitation or RFP Process***

The affidavit from the participants in the bid solicitation or RFP for the contract or lease must attest to whether they received a gift from the bidder or his agent or employees between either 12 months immediately preceding the bid or proposal or October 1, 2004, whichever is later, and the date the bid or proposal is submitted.

***Affidavits from Awarding Authorities***

The affidavit from the officials or employees who participated substantially in negotiating or awarding the contract or lease must attest to whether gifts were received between the date the participants in the bid solicitation or RFP signed their affidavit and the date the contract or lease was executed.

***Duty When Gifts Given***

If any gift was given in any of the above-described situations, the affidavit must describe it, its value, and the approximate date that it was given.

**STATEMENT OF FINANCIAL INTEREST**

The bill requires public officials to describe in their annual statements of financial interest, any business affiliation between a business associated with the official and (1) a lobbyist; (2) a person the official knows or has reason to know is doing, or seeking to do, business with the state; (3) a person engaged in activities regulated by the official's department or agency; or (4) the lobbyist's or other person's associated business. The bill covers a business owned by an official or his spouse

or dependent child or one where any one of them works; serves as officer, director, or compensated agent; or owns at least 5% of the stock in any class.

## **BACKGROUND**

### ***Statement of Financial Interests***

With a few exceptions, public officials must file a statement of financial interests with the State Ethics Commission annually, by May 1. The statement includes the official's and his spouse's and dependent child's financial interests for the preceding calendar year. Officials required to file the statement include: statewide elected officials, legislators, department heads and their deputies, and members or directors of each quasi-public agency.

### ***Related Bills***

sSB 392, (File 399) favorably reported by the Government Administration and Elections Committee on March 19, requires the SPRB to approve most state construction and purchasing contracts valued at \$500,000 or more and privatization contracts valued at over \$500,000.

sHB 5433, (File 408) also favorably reported by the Government Administration and Elections Committee on March 19, requires bidders to include a copy of their affidavit in any application for prequalification to work on a construction contract valued at \$500,000 or more.

### ***Legislative History***

The House referred the bill (File 403) to the Judiciary Committee on April 6. On April 13, that committee reported this substitute reducing the look-back period of the affidavits, exempting municipal officials and employees from the affidavit requirement, and removing a requirement that public officials and state employees get approval from the State Ethics Commission before accepting gifts on behalf of the state from people prohibited from giving gifts to the officials or employees.

## **COMMENT**

The bill requires subcontractors doing work valued at over \$500,000 on contracts valued at over that sum to submit affidavits to the authority approving the contract. However, it does not specify the period the affidavits must cover.

**COMMITTEE ACTION**

## Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17      Nay 0

## Judiciary Committee

Joint Favorable Substitute

Yea 38      Nay 2